IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 12720 of 2007(L)

PETITIONER:

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1. JACOB VARGHESE,
   BLOCK PROGRAMME OFFICER (BPO),
   SARVA SIKSHA ABHIYAN, BLOCK RESOURCE CENTRE(SSA),
   CHITTARIKKAL, P.O.PARAPPA, KASARAGOD DIST.

2. V.J. SCARIA,
   BLOCK PROGRAMME OFFICER (BPO),
   SARVA SIKSHA ABHIYAN, BLOCK RESOURCE CENTRE(SSA),
   KUMBALA, AT BADIADUKA, P.O.PERDALA,
   KASARAGOD DIST.

3. C.PADMANABHAN,
   BLOCK PROGRAMME OFFICER (BPO), SARVA SIKHSA
   ABHIYAN, BLOCK RESOURCE CENTRE (SSA), BEKKAL,
   P.O.BEKKAL, KASARAGOD DIST.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL
   EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE STATE PROJECT DIRECTOR,
   SARVA SIKSHA ABHIYAN (SSA), THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF EDUCATION,
   KASARAGOD.

4. THE DISTRICT PROJECT OFFICER,
   SARVA SIKSHA ABHIYAN (SSA), KASARAGOD.

BY GOVERNMENT PLEADER SRI.A.J..VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, ALONG WITH WP.23806/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.12720/2007)

EXT.P1: TRUE COPY OF ORDER DT. 4/4/2007.

EXT.P2: TRUE COPY OF ORDER DT. 9/4/2007.

EXT.P3: TRUE COPY OF REPRESENTATION FILED B Y PETR.nO.1

EXT.P4: TRUE COPY OF REPRESENTATIN FILED BY PETR.nO.2.

EXT.P5: TRUE COPY OF REPRESENTATION FILED BY PETR.nO.3.

EXT.P6: TRUE COPIES OF NEWS REPORTS .

RESPONDENTS' EXHIBITS:

EXT.R2(A): TRUE COPY OF ORDER DT. 31/1/2007.

EXT.R2(B): DO. DT. 8/3/2007.

EXT.R2(C): DO DT. 11/4/2005.

EXT.R2(D): DO. DT. 26/4/2005.

EXT.R2(E): DO. DT. 5/9/2005.

A.K. Basheer, J.

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WP.No.12720/2007, it is averred that the petitioners were shifted from their respective Block Resource Centres after assessing their performance, pursuant to a decision taken in this regard. Performance reports were called for from the District Project Officers from all districts for this purpose. The grades/scores assigned to the 3 petitioners in the performance report of the District Project Officer, Kasaragod were found to be very low as could be revealed from Ext.R2 (b). It was therefore that petitioners and 24 other Block Project Officers in various other districts were ordered to be replaced by fresh hands. The assertion made by the petitioners that they have been discharging their duties in a satisfactory manner has been refuted and denied by respondent No.2 in a categorical manner. It is also contended by respondent No.2 that the order of transfer was not actuated by any malicious intentions and was not motivated by political considerations as alleged. As regards petitioner No.2 it is pointed out that he had been working on deputation since June 2003 and the tenure of his deputation had already expired. He had been continuing without any formal order from the Government. Similarly petitioner No.1 was sanctioned deputation for one year by order dated April 11, 2005. As regards petitioner No.3 it is pointed out that his period of deputation had also expired some time back. Ext.R2(c), (d) and (e) have been produced by respondent No.2 in support of the above averments. In short, it is the specific case of respondent No.2 that petitioners had been transferred solely on the basis of the assessment of their performance recorded in the performance report (Ext.R2(a)) and also

since the tenure of their deputation had ended.

4. Having carefully perused the materials on record I find no reason to discard Ext.R2(a) to R2(e). Though several allegations have been made by the petitioners that they have been singled out for transfer due to political reasons, there is no material on record to substantiate the above contentions. Further, petitioners cannot, as of right, insist that they are not liable to be shifted from the Resource Centres since admittedly they had been posted at these Centres on deputation. Respondent No.2 who is in charge of the project has every right to take appropriate action on the basis of the performance report which had been submitted before him. Ext.R2(a) undoubtedly shows that the action taken by respondent No.2 was supported by solid material. In any view of the matter, the action of respondent No.2 cannot be faulted. This Court need not venture into a roving enquiry in a matter like this, particularly since it is purely an assignment on deputation basis. Admittedly the period of deputation had expired in the case of the petitioners. Therefore petitioners cannot be heard to say that they ought to have been allowed to continue as long as they wished to do so.

5. In this context it may also be noticed that petitioners have been relieved shortly after issuance of the order of transfer. Therefore there is no reason why they should be permitted to come back to the respective Resource Centres. Thus the petitioners are not entitled to get any relief in WP.12720/2007. Accordingly it is dismissed.

In view of the order passed in WP.12720/07, no further orders

are necessary in WP.23806/07. It will be open to the authorities concerned to take appropriate further steps to appoint the petitioners in this writ petition on the basis of the selection which was stated to have been made, if there is no other legal impediment. Appropriate direction in this regard shall be issued by the State Project Director expeditiously.

A.K. Basheer
Judge.

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